

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

6 BEYENE NEGEWO,
7 Plaintiff,
8 vs.
9 ERIC HOLDER, et al.,
10 Defendants.

Case No: C 10-80179 SBA

ORDER OF REFERENCE

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On July 17, 2010, Plaintiff filed a petition requesting that the Court order the United States Citizenship and Immigration Service (“USCIS”) to amend his certificate of naturalization to reflect that his birth date is October 6, 1932. The current certificate states that Plaintiff’s birth date is March 10, 1940. Plaintiff asserts that this date is incorrect because his original Ethiopian birth certificate is based on the Julian calendar, rather than the Gregorian calendar used in the United States. Because the error is not clerical and the certificate does not contain information contrary to that found in Plaintiff’s original application, the USCIS does not have authority to amend the certificate. Plaintiff makes his petition under 28 U.S.C. § 1361 and 8 C.F.R. §§ 334.16(b) and 338.5. See also Hussain v. USCIS, 541 F.Supp.2d 1082, 1084-87 (D. Minn. 2008) (explaining the applicable procedural requirements and standard of proof); Kouanchao v. USCIS, 358 F.Supp.2d 837, 839-40 (D. Minn. 2005); In re Lee, 2007 WL 926501, *2 (N.D. Cal. 2007).

The USCIS has filed a Statement of Non-Opposition to Plaintiff's petition, asking that
"should the Court decide to order the naturalization certificate amended, the District Director,
Rosemary Melville, should be served with the Order and that Order will be placed in Plaintiff's
administrative file." Dkt. 3 at 3. The USCIS indicates that "[n]o further action need occur.

1 See, e.g., In re Taymuree, Slip Copy, 2009 WL 3817922 (N.D. Cal. Nov. 12, 2009).” Id.

2 Accordingly,

3 IT IS HEREBY ORDERED THAT this matter is REFERRED to the Chief Magistrate
4 Judge or her designee for Report and Recommendation regarding Plaintiff’s petition, with
5 particular inquiry into why conversion from the Julian calendar to the Gregorian calendar
6 would result in a different day and month of birth.

7 IT IS SO ORDERED.

8 Dated: October_1, 2010


9 SAUNDRA BROWN ARMSTRONG
United States District Judge

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